

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AUG 18 2014

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTOPHER ROYBAL et. al.,

Defendants.

FILED
MATTHEW J. DYKMAN
CLERK

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
CRIMINAL NO. 12-3182-JB

SEP 05 2014

MATTHEW J. DYKMAN
CLERK

ORDER GRANTING
UNOPPOSED MOTION TO CONTINUE TRIAL
AND SET CERTAIN DEADLINES AND HEARINGS

THIS MATTER having come before the Court on Motion of Defendant Christopher Roybal, pursuant to 18 U.S.C. §§ 3161(h)(7)(A), 3161(h)(7)(B)(ii) and 3161(h)(7)(B)(iv), and the Court being advised in the premises:

THE COURT FINDS:

1. On December 12, 2012, Defendant Christopher Roybal was indicted on fifty-six charges including conspiracy to commit the crime of distribution of five kilograms and more of a mixture and substance containing a detectable amount of cocaine, contrary to 21 U.S.C. §§841(a)(1) and (b)(1)(A), and conspiracy to commit the crime of distribution of 50 kilograms and more of a mixture and substance containing a detectable amount of marijuana, contrary to 21 U.S.C. §§841(a)(1) and (b)(1)(C),

and related offenses. It appears that Defendant Christopher Roybal was arrested on December 14, 2012, arraigned on December 18, 2012, and remanded into the custody of the U.S. Marshal, where he remains to this date.

2. Defendant Christopher Roybal is the lead defendant and has 18 co-defendants. On February 20, 2014, Defendant Roybal was arraigned on the Superseding Indictment, which added a charge of tampering with a witness. The new count does not pertain to Defendant Christopher Roybal. Doc. 426.
3. Defendant Christopher Roybal was originally represented by Assistant Federal Defender Richard Winterbottom. During the time of Mr. Winterbottom's representation, the Government moved to have the case declared complex and the Court granted the Government's Motion on January 16, 2013. Doc. 171. Thus the Court found good cause to set aside the standard discovery and motion schedule, and to establish an alternative discovery and motion schedule as agreed by the parties.
4. On October 25, 2013, Jacquelyn Robins was appointed to advise Defendant Christopher Roybal concerning a potential conflict of interest. Doc. 373. On December 17, 2013, Ms. Robins was appointed to represent Defendant Christopher Roybal and Mr. Winterbottom's representation was terminated. Doc. 405.

5. Since that date, Ms. Robins has attempted to come up to speed on the case by reviewing the pleadings and the discovery. As of August 6, 2014, the prosecution had provided 165 disks of discovery which include more than 1000 pages of six wiretap applications, affidavits and orders for multiple phones, more than 48,000 audio files containing wiretapped conversations spanning multiple months, and recordings of meetings. A major problem is that the disks are not numbered and there is no table of contents or index. However, A.U.S.A. Long has provided a spreadsheet which helps defense counsel organize the discovery material. Counsel for Defendant Christopher Roybal is still in the process of reviewing the wiretaps and recordings.
6. On January 2, 2014, an Amended Case Scheduling Order was filed and it set forth certain deadlines including a deadline for pre-trial discovery motions on February 17, 2014. Doc. 415.
7. On February 14, 2014, counsel for Defendant Christopher Roybal filed an Unopposed Motion to Extend Deadline for Pre-Trial Discovery Motions and to Set A Status Conference. Doc. 428. On March 4, 2014, this Court set the status conference for March 21, 2014. Doc. 469.
8. At the status conference in the presence of all defendants and the Government, the Court inquired and there was no objection to a schedule which included the following dates which have yet to occur:

- A. August 8, 2014: Pre-trial Substantive Motions;
 - B. August 29, 2014: Responses to Pre-trial Substantive Motions;
 - C. September 12, 2014: Replies to Responses to Pre-trial Substantive Motions;
 - D. September 16, 2014 at 9:00 a.m.: Hearing on Pre-trial Substantive Motions;
 - E. October 3, 2014: Exhibit lists,
Witness lists,
Changes of plea,
Motions in limine,
Rule 404(b) motions,
Daubert motions, and
Stipulations;
 - F. October 15, 2014 at 9:00 a.m.: Pre-trial Conference;
 - G. October 24, 2014: Proposed jury instructions,
Proposed voir dire,
Responses to motions in limine,
 - H. Objections to exhibits (with responses to objections due seven (7) calendar days thereafter), and Exhibit binders delivered to the Court (Chambers);
 - I. November 3, 2014: Jury Trial
9. On June 3, 2014, Defendant Jonathon Ulibarri was arrested in the District of Nevada, brought before a magistrate and remanded to the custody of the U.S. Marshal. On June 23, 2014, Defendant Jonathon Ulibarri was arraigned by a magistrate in the District of New Mexico on the Superseding Indictment and remanded to the custody of the U.S. Marshal.

10. On June 20, 2014, counsel for Defendant Christopher Roybal filed a Notice Regarding Additional Discovery Motions (Doc. 564) advising the Court that counsel's review of the discovery was not completed; however the Government was making a good faith effort to obtain additional discovery and therefore defense counsel did not intend to file any additional discovery motions at that time.
11. During the month of July, 2014, Counsel for Defendant Christopher Roybal requested additional discovery from the prosecution; however, the prosecution has refused to produce the particular items requested. Counsel for Defendant Roybal is researching the issue and wishes to reserve the right to file an additional discovery motion if necessary.
12. Subsequent to the date of Defendant Jonathon Ulibarri's arraignment on June 23, 2014, counsel for Defendant Jonathon Ulibarri has attempted to review the discovery; however he has not completed his review and therefore he wishes to reserve the right to file an additional discovery motion if necessary as well.
13. On April 17, 2014, this Court held a hearing on Defendants' Joint Motion to Compel Specific Discovery (Doc. 334). The Defendants contend that it is necessary for the Court to rule on the Motion prior to filing any substantive motion concerning the wiretaps in this case. To date, no decision has been rendered.

14. In addition to a Motion to Suppress the Wiretaps, counsel for Defendant Christopher Roybal anticipates that a motion requesting a James hearing concerning the various conspiracies alleged in the Superseding Indictment would be filed. It is therefore anticipated that the hearing on substantive motions could require seven to ten days of court time.
15. The lead attorney for the prosecution on this case, Assistant United States Attorney Shana B. Long, is scheduled to be on maternity leave from the end of September 2014 until the end of December 2014. This case involves a tremendous amount of discovery stemming from multiple wiretaps, including several roving wiretaps. The United States has produced hundreds of pages of discovery in addition to wiretap recordings, search warrant materials, and other investigative material. As such, in a case of this magnitude and complexity, it is particularly crucial to afford the United States continuity of counsel in this matter.
16. As of August 6, 2014, five defendants have pled, leaving 13 defendants facing trial at this time.
17. Therefore, the parties suggest the following dates be substituted for the dates previously agreed upon:

| Event | Old Date | New Date |
|--|--------------------|---|
| Discovery Deadline | January 31, 2014 | October 31, 2014 |
| Pre-trial Substantive Motion | August 8, 2014 | January 5, 2015 |
| Responses to Substantive Motions | August 29, 2014 | February 2, 2015 |
| Replies to Responses | September 12, 2014 | March 2, 2015 |
| Hearing on Pre-trial Substantive Motions | September 16, 2014 | Date to be set by Court during month of March 2015 |
| Exhibit lists, Witness lists, Changes of plea, Motions in limine, Rule 404(b) motions, Daubert motions, and Stipulations | October 3, 2014 | April 3, 2015 |
| Pre-trial Conference | October 15, 2014 | Date to be set by Court during the week of April 6, 2015 |
| Proposed jury instructions, Proposed voir dire, Responses to motions in limine | October 24, 2014 | April 10, 2015 |
| **Objections to exhibits (with responses to objections due seven (7) calendar days thereafter), and Exhibit binders delivered to the Court (Chambers) | | |
| Jury Trial | November 3, 2014 | May 4, 2015 |

18. Extending the motion deadlines and continuing the hearing and trial dates ~~as suggested above~~ ^{30 Sept 14} ~~407 9/5/14~~ will allow counsel the reasonable time necessary for effective preparation and negotiation, taking into account the exercise of due diligence pursuant to 18 U.S.C. § 3161(h)(7)(B)(iv).
19. Extending the motion deadlines and continuing the hearing and trial dates ~~as suggested above~~ ^{30 Sept 14} ~~407 9/5/14~~ will allow for continuity of counsel for the prosecution pursuant to 18 U.S.C. § 3161(h)(7)(B)(iv).

20. The ends of justice served by declaring this case complex and establishing a workable scheduling order for motion deadlines and trial outweigh the best interest of the public and the defendants to a speedy trial. See 18 U.S.C. § 3161(h)(7)(A) and 3161(h)(7)(B)(ii).

21. Thus good grounds exist for extension of the deadlines and continuance of the dates set for hearings and the trial as suggested above pursuant to US v. Toombs, 574 F.3d 1262 (10th Cir. 2009).

IT IS THEREFORE ORDERED that the following dates shall be substituted for the dates previously agreed upon:

| Event | Old Date | New Date |
|--|----------------------------|--|
| Discovery Deadline | January 31, 2014 | October 31, 2014 |
| Pre-trial Substantive Motion | August 8, 2014 | January 5, 2015 |
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| Jury Trial | November 3, 2014 | May 4, 2015 |

James O. Browning

THE HONORABLE JAMES O. BROWNING
UNITED STATES DISTRICT COURT JUDGE

Submitted:

Signed 8/8/14

Jacquelyn Robins, Esq.

on behalf of all named Defendants

Approved:

Signed 8/8/14

Shana B. Long, Esq.

Assistant U.S. Attorney

After weighing the best interests of the public at of the
Defendants with the ends of justice, the Court finds that
granting a continuance will strike a proper balance
between the ends of justice at the best interests
of the public at of the Defs. Of the reasons

stated in the motion request a continuance, the
Agt 8, 2014 (Doc. 597). Specifically, the
Def's need to exhaust discovery with the Defs at the

public's interests in a swift trial. 18 U.S.C. § 3161(h)(7). The Court
~~is not inclined to~~ ~~it should hold a lot of time into the~~ ~~schedule of motions and discovery~~ ~~the may never be filed at~~ ~~of Defs who may not be aware of the Court~~. The
Court ~~will~~ ~~has~~ held that, on the limited record before the Court,
that the 1823 - ~~the~~ continuance is ~~afforded~~ ~~with~~ ~~by~~ ~~granting~~ the
necessity of the Defs to complete the tasks set forth in the motion to
continue.

and at the long on Sept 5,
2014.